

§ 240.15c1-1

BD-N that it satisfies all of the conditions in paragraph (a) of this section.

(c) If the information contained in any notice of registration filed on Form BD-N (17 CFR 249.501b) pursuant to this section is or becomes inaccurate for any reason, the broker or dealer shall promptly file an amendment on Form BD-N correcting such information.

(d) An application for registration by notice, and any amendments thereto, that are filed on Form BD-N (17 CFR 249.501b) pursuant to this section will be considered a “report” filed with the Commission for purposes of sections 15(b), 17(a), 18(a), 32(a) (15 U.S.C. 78o(b), 78q(a), 78r(a), 78ff(a)) and other applicable provisions of the Act.

[66 FR 45146, Aug. 27, 2001]

RULES RELATING TO OVER-THE-COUNTER MARKETS

§ 240.15c1-1 Definitions.

As used in any rule adopted pursuant to section 15(c)(1) of the Act:

(a) The term *customer* shall not include a broker or dealer or a municipal securities dealer; provided, however, that the term “customer” shall include a municipal securities dealer (other than a broker or dealer) with respect to transactions in securities other than municipal securities.

(b) The term *the completion of the transaction* means:

(1) In the case of a customer who purchases a security through or from a broker, dealer or municipal securities dealer, except as provided in paragraph (b)(2) of this section, the time when such customer pays the broker, dealer or municipal securities dealer any part of the purchase price, or, if payment is effected by a bookkeeping entry, the time when such bookkeeping entry is made by the broker, dealer or municipal securities dealer for any part of the purchase price;

(2) In the case of a customer who purchases a security through or from a broker, dealer or municipal securities dealer and who makes payment therefor prior to the time when payment is requested or notification is given that payment is due, the time when such broker, dealer or municipal securities

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dealer delivers the security to or into the account of such customer;

(3) In the case of a customer who sells a security through or to a broker, dealer or municipal securities dealer except as provided in paragraph (b)(4) of this section, if the security is not in the custody of the broker, dealer or municipal securities dealer at the time of sale, the time when the security is delivered to the broker, dealer or municipal securities dealer, and if the security is in the custody of the broker, dealer or municipal securities dealer at the time of sale, the time when the broker, dealer or municipal securities dealer transfers the security from the account of such customer;

(4) In the case of a customer who sells a security through or to a broker, dealer or municipal securities dealer and who delivers such security to such broker, dealer or municipal securities dealer prior to the time when delivery is requested or notification is given that delivery is due, the time when such broker, dealer or municipal securities dealer makes payment to or into the account of such customer.

[41 FR 22825, June 7, 1976]

§ 240.15c1-2 Fraud and misrepresentation.

(a) The term *manipulative, deceptive, or other fraudulent device or contrivance*, as used in section 15(c)(1) of the Act (section 2, 52 Stat. 1075; 15 U.S.C. 78o(c)(1)), is hereby defined to include any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

(b) The term *manipulative, deceptive, or other fraudulent device or contrivance*, as used in section 15(c)(1) of the Act, is hereby defined to include any untrue statement of a material fact and any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, which statement or omission is made with knowledge or reasonable grounds to believe that it is untrue or misleading.

(c) The scope of this section shall not be limited by any specific definitions of the term “manipulative, deceptive, or

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other fraudulent device or contrivance” contained in other rules adopted pursuant to section 15(c)(1) of the act.

(Sec. 2, 52 Stat. 1075; 15 U.S.C. 78o)

CROSS REFERENCE: For regulation prohibiting employment of manipulative and deceptive devices as such term is used in section 15 of the Act, by any broker or dealer, see § 240.10b-3.

[13 FR 8205, Dec. 22, 1948]

§ 240.15c1-3 Misrepresentation by brokers, dealers and municipal securities dealers as to registration.

The term *manipulative, deceptive, or other fraudulent device or contrivance*, as used in section 15(c)(1) of the Act, is hereby defined to include any representation by a broker, dealer or municipal securities dealer that the registration of a broker or dealer, pursuant to section 15(b) of the Act, or the registration of a municipal securities dealer pursuant to section 15B(a) of the Act, or the failure of the Commission to deny or revoke such registration, indicates in any way that the Commission has passed upon or approved the financial standing, business, or conduct of such registered broker, dealer or municipal securities dealer or the merits of any security or any transaction or transactions therein.

[41 FR 22825, June 7, 1976]

§ 240.15c1-4 [Reserved]

§ 240.15c1-5 Disclosure of control.

The term *manipulative, deceptive, or other fraudulent device or contrivance*, as used in section 15(c)(1) of the Act, is hereby defined to include any act of any broker, dealer or municipal securities dealer controlled by, controlling, or under common control with, the issuer of any security, designed to effect with or for the account of a customer any transaction in, or to induce the purchase or sale by such customer of, such security unless such broker, dealer or municipal securities dealer, before entering into any contract with or for such customer for the purchase or sale of such security, discloses to such customer the existence of such control, and unless such disclosure, if not made in writing, is supplemented by the giving or sending of written dis-

closure at or before the completion of the transaction.

[41 FR 22825, June 7, 1976]

§ 240.15c1-6 Disclosure of interest in distribution.

The term *manipulative, deceptive, or other fraudulent device or contrivance*, as used in section 15(c)(1) of the Act, is hereby defined to include any act of any broker who is acting for a customer or for both such customer and some other person, or of any dealer or municipal securities dealer who receives or has promise of receiving a fee from a customer for advising such customer with respect to securities, designed to effect with or for the account of such customer any transaction in, or to induce the purchase or sale by such customer of, any security in the primary or secondary distribution of which such broker, dealer or municipal securities dealer is participating or is otherwise financially interested unless such broker, dealer or municipal securities dealer, at or before the completion of each such transaction gives or sends to such customer written notification of the existence of such participation or interest.

[41 FR 22826, June 7, 1976]

§ 240.15c1-7 Discretionary accounts.

(a) The term *manipulative, deceptive, or other fraudulent device or contrivance*, as used in section 15(c) of the Act, is hereby defined to include any act of any broker, dealer or municipal securities dealer designed to effect with or for any customer's account in respect to which such broker, dealer or municipal securities dealer or his agent or employee is vested with any discretionary power any transactions or purchase or sale which are excessive in size or frequency in view of the financial resources and character of such account.

(b) The term *manipulative, deceptive, or other fraudulent device or contrivance*, as used in section 15(c)(1) of the Act, is hereby defined to include any act of any broker, dealer or municipal securities dealer designed to effect with or for any customer's account in respect to which such broker, dealer or municipal securities dealer or his agent or